

Please replace claim 1 as shown and please amend base claims 2 and 14. Please amend dependent claims 5 and 10. Please cancel claims 3 and 4. Please add new independent claim 15.

Two claim presentations are shown.

The first claim presentation includes all of the remaining claims for consideration in the case with all amendments having been made thereto. The edit markings are omitted from the first claim presentation although all accumulated amendments made thus far to all of the remaining claims in the case are included in the first claim presentation. Therefore, the first claim presentation is believed to represent all of the remaining claims after having first accomplished the instant amendments, if any.

The second claim presentation includes only those claims that are being amended by this response. Please amend the claims in accordance with the changes that are shown, the added words being underlined and the deleted words being in brackets.

A. First claim presentation of all remaining claims in their final form.

4' 1. A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

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(c) means for draining a fluid from said foodstuff in said can of food.

2. A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein and wherein said closed bottom of said cylinder is magnetized;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

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(c) means for draining a fluid from said foodstuff in said can of food.

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5. The device of claim 2 wherein said closed bottom of said cylinder includes a magnet.

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6. The device of claim 2 wherein said grate means is attached to a distal end of a third member and is disposed intermediate said longitudinal second member and said longitudinal first member and wherein said third member is pivotally attached to said longitudinal second member at a proximate end and wherein said grate means is adapted to bear upon a foodstuff in said can of food when said longitudinal second member is urged about said pivot axis toward said longitudinal first member.

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7. The device of claim *4* wherein said grate means includes a circular grate.

*Amend
A 3* ~~6~~ 8. The device of claim ~~5~~ wherein said circular grate includes a plurality of ridges that are in parallel spaced apart relationship with respect to each other and wherein each of said ridges includes a raised portion and a depressed portion each of which extend along the longitudinal length thereof.

~~7~~ 9. The device of claim ~~5~~ wherein said circular grate includes a plurality of holes therein.

~~8~~ 10. The device of claim 2 wherein said longitudinal first member includes a first handle disposed at said distal end and wherein said longitudinal second member includes a second handle disposed at said distal end.

~~9~~ 11. The device of claim ~~8~~ 10 wherein said longitudinal second member includes an arcuate portion that is disposed over said cylinder.

~~10~~ 12. The device of claim ~~9~~ 11 wherein said grate means is attached to a distal end of a third member and wherein said

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third member is pivotally attached to said longitudinal second member proximate the center of said arcuate portion at a second pivot axis, wherein said second pivot axis is parallel with respect to said pivot axis and wherein said grate means is adapted to bear upon a foodstuff in said can of food when said longitudinal second member is urged about said pivot axis toward said longitudinal first member.

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13. The device of claim ~~12~~¹⁰ wherein the distance from said distal end of said longitudinal second member to said second pivot axis exceeds the distance from said second pivot axis to said pivot axis.

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14. A method for draining a fluid from a can of food, comprising the steps of:

(a) removing a lid from the can of food;

(b) placing the can of food on a device that is adapted for retaining the can of food and wherein said device includes:

(1) a longitudinal first member having a proximate end and a distal end;

(2) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein and wherein said closed bottom of said cylinder is magnetized;

(3) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(4) grate means for retaining a foodstuff in said can of food; and

(5) means for draining a fluid from said foodstuff in said can of food; and

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(c) urging said first member of the device to pivot about said pivot axis toward said second member sufficient so that said grate means bears upon food that is disposed in the can of food sufficient to cause at least a portion of the fluid therein to be displaced from the food.

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13. A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein and wherein said closed bottom of said cylinder includes a magnet;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to

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said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

(c) means for draining a fluid from said foodstuff in said can of food.

B. Second claim presentation of the instant amendments only.

1. (Replacement) A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

(c) means for draining a fluid from said foodstuff in said can of food.

2. (Amended) A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to

receive said can of food therein and wherein said
closed bottom of said cylinder is magnetized;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

(c) means for draining a fluid from said foodstuff in said can of food.

5. (Amended) The device of claim [3] 2 wherein said closed bottom of said cylinder includes a magnet.

10. (Amended) The device of claim [3] 2 wherein said longitudinal first member includes a first handle disposed at said distal end and wherein said longitudinal second member includes a second handle disposed at said distal end.

14. (Amended) A method for draining a fluid from a can of food, comprising the steps of:

(a) removing a lid from the can of food;

(b) placing the can of food on a device that is adapted for retaining the can of food and wherein said device includes:

(1) a longitudinal first member having a proximate end and a distal end;

(2) means adapted for retaining said can of food attached to said longitudinal first member at said proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein and wherein said closed bottom of said cylinder is magnetized;

(3) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot

axis with respect to said longitudinal first member at said proximate end thereof;

(4) grate means for retaining a foodstuff in said can of food; and

(5) means for draining a fluid from said foodstuff in said can of food; and

(c) urging [a] said first member of the device to pivot about [a] said pivot axis toward [a] said second member sufficient so that [a] said grate means [that is attached to the second member] bears upon food that is disposed in the can of food sufficient to cause at least a portion of the fluid therein to be displaced from the food.

15. (New) A device for draining a can of food, comprising:

(a) a longitudinal first member having a proximate end and a distal end;

(b) means adapted for retaining said can of food attached to said longitudinal first member at said

proximate end and wherein said means adapted for retaining includes a cylinder, said cylinder having an open top and a closed bottom and being adapted to receive said can of food therein and wherein said closed bottom of said cylinder includes a magnet;

(c) a longitudinal second member having a proximate end and a distal end, said longitudinal second member being adapted to pivot about a pivot axis with respect to said longitudinal first member at said proximate end thereof;

(d) grate means for retaining a foodstuff in said can of food ; and

(c) means for draining a fluid from said foodstuff in said can of food.

REMARKS

Reconsideration of the above identified patent application is hereby respectfully requested in view of the foregoing amendments and following remarks. Claim 1 has been replaced. Base claims 2 and 14 have been amended as have